

OCA FILE

SPECIAL

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

OCA 4153-88

DEC 28 1988

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer-

Department of Agriculture (Stangeland 447-7095)	30
Department of Education (Kristy 732-2670)	07
Department of Labor (Zinman 523-8207)	18
Office of Federal Procurement Policy (Coleman Room #9013)	
Department of Health and Human Services (White 245-7750)	14
Environmental Protection Agency (Schilling 382-5414)	08
United States Trade Representative (Parker X6800) #245-5417	23
Department of Defense (Brick 697-1305)	06
National Security Council (Stevens X6534 GF/WW (OEOB - Room #381)	
Office of Personnel Management (Woodruff 632-4682)	22
Central Intelligence Agency	
Department of Justice (Perkins 633-2113)	17
Agency for International Development (Lester 647-8404)	02
U.S. Information Agency (Dexheimer 485-7976)	
General Services Administration (Vicchiolla 566-0563)	37
Department of the Treasury (Carro 566-8523)	28
Department of Commerce (Levitt 377-3151)	04
Arms Control and Disarmament Agency (Staples 647-8478)	34
Department of the Interior (Kiko 343-6706)	16
Department of Energy (Rabben 586-6718)	09
Corps of Engineers (Nee 272-0032)	05
Department of the Army (Civil Works/Rees 695-1370)	39

SUBJECT: Draft Department of State Authorization for FY's 1990
and 1991

The Office of Management and Budget requests the views of your agency on the above subject before advising on its relationship to the program of the President, in accordance with OMB Circular A-19.

A response to this request for your views is needed no later than Wednesday, January 11, 1989.

SPECIAL

Questions should be referred to Sue Thau/Annette Rooney
(395-7300), the legislative analyst in this office.

Ronald K. Peterson

RONALD K. PETERSON for
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Enclosures

cc: F. Seidl
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UNDER SECRETARY OF STATE
FOR MANAGEMENT
WASHINGTON

December 21, 1988

Dear Mr. Wright:

Enclosed is the Department of State's draft authorization act for new authorization of appropriations for FY 1990 and for FY 1991 and a Section-by-Section analysis (Tab 1). Tab 2 contains a summary of proposed changes to the Department Authorization Act and other legislation. Also enclosed are draft letters to the President of the Senate and to the Speaker of the House outlining the primary purpose of the proposed legislation (Tab 3).

We would appreciate OMB's earliest attention to this matter, since the House Foreign Affairs Committee is expected to schedule consideration of this legislation early in the first session of the 101st Congress.

Sincerely yours,


George S. Vest, Acting

Enclosures:

1. Department of State Authorization of Appropriation, Fiscal Years 1990 and 1991 and a Section-by-Section Analysis of the Act.
2. Summary of Changes to State Department Authorization.
3. Draft letters to President of the Senate and to the Speaker of the House.

The Honorable
Joseph R. Wright, Jr., Director,
Office of Management and Budget.

AN ACT

To authorize appropriations for fiscal years 1990 and 1991 for
the Department of State, and for other purposes.

Be it enacted by the Senate and the House of Representatives
of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) Short Title.--This Title may be cited as the "Foreign
Relations Authorization Act, Fiscal Years 1990 and 1991."

(b) Table of Contents.--The table of contents for this Act
is as follows:

INSERT TABLE OF CONTENTS

TITLE I -- THE DEPARTMENT OF STATE

PART A -- AUTHORIZATION OF APPROPRIATIONS; ALLOCATION OF FUNDS

SEC. 101. AUTHORIZATION OF APPROPRIATIONS

a) In addition to amounts otherwise authorized for such purposes, the following amounts are authorized to be appropriated for the Department of State to carry out the authorities, functions, duties and responsibilities in the conduct of the foreign affairs of the United States and other purposes authorized by law:

(1) For "Administration of Foreign Affairs", \$2,276,982,000 for the fiscal year 1990 and such sums as may be necessary for the fiscal year 1991.

(2) For "International Organizations and Conferences", \$832,451,000 for the fiscal year 1990 and such sums as may be necessary for the fiscal year 1991.

(3) For "International Commissions", \$37,460,000 for the fiscal year 1990 and such sums as may be necessary for the fiscal year 1991.

(b) In addition to amounts otherwise authorized for such purposes, there are authorized to be appropriated to the Department of State under "Migration and Refugee Assistance, \$370,000,000 for the fiscal year 1990 and such sums as may be necessary for the fiscal year 1991.

12/19/88 p.m.

(c) In addition to amounts otherwise authorized for such purposes, there are authorized to be appropriated to the Department of State for the following programs:

(1) "Bilateral Science and Technology Agreements", \$4,000,000 for the fiscal year 1990 and such sums as may be necessary for the fiscal year 1991.

(2) "Soviet-East European Research and Training", \$4,600,000 for the fiscal year 1990 and such sums as may be necessary for the fiscal year 1991.

(3) "Asia Foundation", \$8,300,000 for the fiscal year 1990 and such such as may be necessary for the fiscal year 1991.

SEC. 102. AVAILABILITY OF FUNDS

(a) Section 24 of the State Department Basic Authorities Act is amended

(1) by renumbering subsections (b)(4) - (b)(6) as (b)(5) - (b)(7) and by inserting as new subsection (b)(4):

"(b)(4) No later than the end of the second fiscal year following the last fiscal year for which appropriations (other than no-year appropriations) for any account under the heading 'Administration of Foreign Affairs' have been made available to the Department of State, unobligated balances for such appropriations may be transferred into and merged with the Buying Power Maintenance Account."; and

(2) in subsection (d) by striking "the 'Administration of Foreign Affairs' account, the 'International Organizations and Conferences' account, the 'International Commissions' account, or the 'Migration and Refugee Assistance'" and inserting "an"; and by striking the word "such" wherever it appears; and

(3) by inserting the following new subsections (e) through (g):

"(e) If the amount appropriated (or made available in the event of a sequestration order issued pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99-177) for a fiscal year pursuant to any authorization of appropriations provided by an act other than an appropriation act is less than the authorization amount and a provision of that act provides that a specified amount of the authorization amount shall be available only for a certain purpose, then the amount so specified shall be deemed to be reduced for that fiscal year to the amount which bears the same ratio to the specified amount as the amount appropriated (or made available in the event of sequestration) bears to the authorization amount.

"(f) Refunds received in any fiscal year from disposition of property acquired by contractors through use of funds appropriated to the Department of State may be transferred to the appropriate appropriations account currently available to the Department in the year of refund.

"(g) Amounts authorized to be appropriated for a fiscal year for the Department of State are authorized to be obligated for twelve month contracts which are to be performed in two fiscal years, provided that the total amount for such contracts is obligated in the earlier fiscal year."

(b) Subsection (a) shall apply only to funds appropriated for fiscal year 1987 and thereafter. In the case of appropriations provided for fiscal years 1987 and 1988, it shall apply only to funds which become deobligated after the date of enactment of this Act.

SEC. 103. FUNDING FOR SEVILLE WORLD'S FAIR

There is authorized to be appropriated \$5,000,000, to be available until expended, for costs associated with United States participation in the 1992 Seville World's Fair. Such funds shall be available for obligation or expenditure only to the extent that they represent no more than one-third of the U.S. Government's contribution toward the costs of such participation, the balance of the U.S. Government contribution to be provided by the Department of Commerce and the United States Information Agency.

PART B -- DEPARTMENT OF STATE AUTHORITIES
AND ACTIVITIES; FOREIGN MISSIONS

SEC. 121. AUTHORIZATION OF CERTAIN OPERATIONAL ACTIVITIES

Section 2 of the State Department Basic Authorities Act is amended

- (a) in subsection (g) by deleting "and" at the end;
- (b) in subsection (h) by deleting the "." and inserting in its place ";"; and
- (c) by inserting the following as new subsections (i) - (k):
 - "(i) obligations assumed in Germany on or after June 5, 1945;
 - (j) provision of telecommunications services; and
 - (k) provision of maximum physical security in Government-owned and leased properties and vehicles abroad."

SEC. 122. SHARED COSTS AT AMERICAN EMBASSIES ABROAD

(a) Section 9 of the Foreign Service Buildings Act, 1926 (22 U.S.C. 300) is amended:

- (1) in subsection (a)(1) by inserting "accept reimbursement for use of" after "lease,"; and
- (2) in subsection (b) by inserting "reimbursements" after "payments,".

(b) Section 23 of the State Department Basic Authorities Act is amended by inserting "(a)" before the existing text and adding a new subsection at the end as follows:

"(b) In order to ensure that overseas administrative support services are available for all Federal agencies with representation at U.S. missions abroad, and are provided in the most efficient and economical manner possible, other Federal agencies shall make use of such services provided by the Department of State, to the extent that the Department of State determines that it is able to provide such services in an efficient and cost effective manner, on a reimbursable basis. In particular, all such agencies will provide cost reimbursement for local guard programs, provided by the Diplomatic Security Service pursuant to section 105(2)(D) of the Omnibus Diplomatic Security and Antiterrorism Act of 1986 (22 U.S.C. 4804(2)(D)).

SEC. 123. AUTHORITY OF DIPLOMATIC SECURITY SERVICE

Section 37(a)(5)(A) of the State Department Basic Authorities Act (22 U.S.C. 2709(a)(5)(A)) is amended to read as follows:

"(A) in the case of a felony violation, if the special agent has reasonable grounds to believe that such person has committed or is committing such violation; or"

SEC. 124. FEES AND REIMBURSEMENTS

The State Department Basic Authorities Act of 1956 is amended by adding as a new section 43:

"SEC. 43. (a) Notwithstanding sections 1 and 2 of the Act of June 4, 1920, as amended (22 U.S.C. 214 and 215), and any other provision of law, up to \$20 million each fiscal year in fees collected:

(1) by the Secretary of State for issuance of passports and for execution of applications for passports,

(2) by consular officers for issuance of visas and for execution of applications for visas, and

(3) by consular officers for performance of notarial functions;

shall be credited to a Department of State account which shall be available without fiscal year limitation only for the payment of the expenses of research, development, and equipment for automation of passport and visa functions, including related software. Such account shall not exceed \$20 million at any one time. Any such funding derived from fees will not be treated as an offset to other Department funding.

"(b) Notwithstanding any other provision of law, funds received by the Department in connection with use of Blair House, including reimbursements and surcharges for services and goods provided and fees for use of Blair House facilities, may be credited to the appropriate appropriation account currently available to the Department, and shall be available for the purposes for which such appropriation account is authorized to be used."

SEC. 125. WAR HAZARDS COMPENSATION ACT

Section 16 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2680a) is hereby amended as follows:

(1) by designating the existing text as subsection

"(a)"; and

(2) by adding the following new subsection:

"(b) With respect to any contract or other work performed at a diplomatic or consular mission of the United States, the term "war-risk hazard" shall include for purposes of the Act of December 2, 1942 (commonly known as the War Hazards Compensation Act) any hazard arising from terrorist activity, as determined by the Secretary of State in consultation with the Secretary of Labor, whether or not such hazard is otherwise included within the definition of "war-risk hazard" contained in section 201 of that Act."

SEC. 126. INTERNATIONAL CENTER

Section 4 of the International Center Act is amended by inserting at the end the following new subsection (c):

"(c) The Department of State is authorized to charge U.S. Government agencies for the lease or use of facilities located at the International Center and used for the purposes of security and maintenance. Any payments received for lease or use of such facilities shall be credited to the account

12/19/88

p.m.

entitled "International Center, Washington, D.C." and shall be available, without fiscal year limitation, to cover the operating expenses of such facilities including but not limited to administration, maintenance, utilities, repairs and alterations."

SEC. 127. ACQUISITION OF DOMESTIC PROPERTY AS INTERIM STEP TO ACQUIRING PROPERTY ABROAD

(a) Section 203(c) of the State Department Basic Authorities Act is amended by striking "and" at the end of subparagraph (2); by renumbering subparagraph "(3)" as subparagraph "(4)"; and by inserting as a new subparagraph (3):

"(3) dispose of property acquired in carrying out the purposes of this Act, provided that proceeds from disposition of properties acquired pursuant to section 204(f) shall be credited to the Foreign Service Buildings Fund under section 9 of the Foreign Service Buildings Act, 1926; and";

(b) Section 204 of the State Department Basic Authorities Act is amended

(1) in subsection (b) by striking the "or" at the end of (b)(3) and inserting "or" at the end of (b)(4), and by adding a new subparagraph (b)(5) as follows:

"(5) to implement an exchange of property with a foreign country, such property to be used by each government in the receiving state for or in connection with

12/19/88

p.m.

diplomatic or consular establishments,"; and

(2) adding a new subsection (f) as follows:

"(f) Upon a determination in each specific case by the Secretary or his designee that the purposes of the Foreign Service Buildings Act, 1926, can best be met on the basis of an in-kind exchange of properties with a foreign country pursuant to subsection (b)(5), the Secretary may transfer funds made available under the heading "Acquisition and Maintenance of Buildings Abroad" for such purposes, including funds held in the Foreign Service Buildings Fund, to the Working Capital Fund as provided in section 208(h)(1) of this Act."

(c) Section 9(a)(1) of the Foreign Service Buildings Act, 1926 is amended by adding "or in the United States pursuant to section 204(b)(5) of the State Department Basic Authorities Act of 1956" at the end.

SEC. 128. WORKING CAPITAL FUND FOR OFFICE OF FOREIGN MISSIONS

Section 13 of the State Department Basic Authorities Act is amended by inserting "and" before "(4)"; and by striking "; and (5) services and supplies to carry out" and inserting in its place ". Such fund shall also be available without fiscal year limitation to carry out the purposes of".

12/19/88

p.m.

SEC. 129. FOREIGN SERVICE INSTITUTE FACILITIES

Section 123(c)(2) of the Foreign Relations Authorization Act, 1986-87 is amended by striking "\$50,000,000" and inserting in its place "62,000,000".

SEC. 130. MUNITIONS CONTROL REGISTRATION FEES.

Section 38(b)(3)(A) of the Arms Export Control Act (22 U.S.C. 2778) is amended by striking "of the fiscal years 1988 and 1989," and inserting in its place "fiscal year, beginning with fiscal year 1988,".

SEC. 131. ESTABLISHMENT OF STAFFING LEVELS BY CHIEF OF MISSION

(a) Section 801 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989, is hereby repealed;

(b) Section 103(b) of the Omnibus Diplomatic Security and Antiterrorism Act (22 U.S.C. 4802(b)) is amended by striking "or regional inspector general offices under the jurisdiction of the Inspector General, Agency for International Development" in subsection (b)(2); and

(c) The Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Public Law 100- 461) is amended by striking ":" after "heading" in "Operating Expenses of the Agency for International Development Office of Inspector General" and inserting in its place "." and striking everything thereafter.

12/19/88

p.m.

SEC. 132. STATE DEPARTMENT POST OFFICES ABROAD

Title 39 United States Code is amended as follows:

(a) Section 406 is amended:

(1) By adding "and diplomatic posts abroad" after "installations" in the title; and

(2) In subsection (a) by striking "and" after "Armed Forces" and replacing it with "," and inserting ", and at diplomatic posts abroad" before the "." at the end; and

(3) In subsection (b) by inserting ", State" after "Defense".

(b) Section 3401 is amended

(1) by inserting "and United States Government employees assigned to United States diplomatic missions abroad" in the title;

(2) in subsection (e) by inserting "and the Department of State" after "Department of Defense" in the first line; by striking "the Department of Defense" in the third line and replacing it with "these agencies"; by inserting "or diplomatic posts abroad" after "Armed Forces post offices"; and by inserting "or a diplomatic post abroad" before the "." at the end; and

(3) in subsection (f) by inserting "or the Secretary of State" after "Secretary of Defense".

12/19/88

p.m.

SEC. 133. REPORT ON EXPENDITURES MADE FROM APPROPRIATION FOR EMERGENCIES IN THE DIPLOMATIC AND CONSULAR SERVICE

Section 124 of the Foreign Relations Authorization Act, Fiscal Years 1988-89 (Public Law 100-204) is repealed.

SEC. 134. INTERNATIONAL BOUNDARY & WATER COMMISSION

(a) Section 103 of the Act of September 13, 1950, as amended (22 U.S.C. 277d-3) is amended by inserting after "guard purposes;" "official entertainment and other representation expenses within the United States for the United States section;"

(b) Section 101 of the Act of June 20, 1956 (22 U.S.C. 277d-12) is amended as follows:

(1) In the title by inserting "and sanitation" after "flood control"; and by striking "Rio Grande" and inserting in its place "boundary rivers, and boundary sanitation problems";

(2) In the provision by inserting "or sanitation" after "flood control"; by striking the "." after "Rio Grande" and inserting in its place ", Colorado and Tijuana Rivers; and for taking of emergency actions to protect against health threatening sanitation problems in the United States along the U.S.-Mexico Boundary."

(c) The Act of May 13, 1924, as amended (22 U.S.C. 277 - 277f), is amended as follows:

(1) in section 3 (22 U.S.C. 277b) by

12/19/88

p.m.

(A) inserting "(1)" after "authorized" in the first line; by striking "and (b)" and inserting "(2)"; and by striking the "." and inserting in its place "; and (3) to carry out preliminary surveys, operations and maintenance of the interceptor system to be constructed to intercept sewage flows from Tijuana and from selected canyon areas as currently planned, and the operation and maintenance upon completion of the proposed Environmental Protection Agency and Corps of Engineers pipeline and plant project to capture Tijuana sewage flows in the event of a major breakdown in Mexico's conveyance system."; and

(B) adding the following new subsections (b) and (c):

"(b) Expenditures for the Rio Grande bank protection project shall be subject to the provisions and conditions contained in the appropriation for said project as provided by the Act approved April 25, 1945 (59 Stat. 89).

("c) The Anzalduas diversion dam shall not be operated for irrigation or water supply purposes in the United States unless suitable arrangements have been made with the prospective water users for repayment to the Government of such portions of the dam as shall have been allocated to such purposes by the Secretary of State."; and

p.m.

(2) by adding the following new section:

"(9)(a) Upon conclusion of an appropriate agreement between the United States and Mexico, and notwithstanding any other provision of law, there shall be established in the Treasury of the United States a revolving fund to be known as the "International Boundary and Water Commission Revolving Fund" ("Fund"). The Fund shall be available to the United States Commissioner, acting for the International Boundary and Water Commission ("Commission") to carry out the purposes, functions, and powers authorized by this Act, including construction, operation and maintenance of international works undertaken through the Commission pursuant to recommendations of the Commission approved by the Governments of the United States and Mexico, including but not limited to international flood control works, international storage, flood control and/or power generation dams, international boundary stabilization works, and international water pollution control works. Such funds used in accordance with the authorities of this section shall be in addition to other funds available for the purposes authorized to the United States Section of the Commission.

"(b) Notwithstanding section 2 of Public Law 83-406 and any other provision of law, there shall be deposited in the Fund by the Governments of the United States and Mexico in accordance with the agreement concluded between the United States and Mexico, on a continuing basis, receipts from sale of

12/19/88

p.m.

electricity generated by electrical power plants owned by the United States and by Mexico at Falcon and Amistad dams and others that the Commission may recommend and the two Governments approve. No funds may be obligated or expended by the United States Commissioner pursuant to 277g(a) from this Fund in any fiscal year unless such obligation or expenditure has been specifically authorized by law and there exists a proportionate contribution by the Government of Mexico of funds from receipts from sale of electricity generated at electrical power plants owned by it at Falcon and Amistad dams and others that the Commission may recommend and the two Governments approve. All funds deposited in such account shall, notwithstanding any other provision of law, be available until expended. All funds in such account may be invested in obligations of the United States.

"(c) Not later than 30 days after the end of each fiscal year, the Secretary of the Treasury shall report to the Congress the amount of revenues deposited in the Fund during each fiscal year."

SEC. 135. SALE OF PERSONAL PROPERTY

Section 301(7) of the State Department Basic Authorities Act is amended by inserting at the end:

"The Secretary may authorize individuals to retain a portion of such profit before making a required

12/19/88

p.m.

contribution to charity to offset in whole or in part income taxes that may accrue from such sale, disposition or assignment."

SEC. 136. AUTHORITY TO RETAIN FUNDS FOR EXPENSES FROM CLAIMS SETTLEMENT FUNDS

Chapter 34 of the Act of February 27, 1896 (22 U.S.C.

2668a) is amended as follows:

(1) by inserting ", subject to the deduction made under subsection (b) of this section, if any," after "and certify the same" in the second sentence;

(2) by designating the existing text, as so amended, as subsection (a);

(3) by inserting at the end thereof the following new subsection (b):

"(b) The Secretary of State shall deduct from moneys received from foreign governments and other sources as a result of an international arbitration or other international dispute settlement proceeding to which the United States is a party an amount equal to 5 percent of any moneys determined by the Secretary to be due a private U.S. claimant, as reimbursement for expenses incurred. The amount so deducted shall be deposited in a special interest-bearing account held by the U.S. Treasury. Notwithstanding any other provision of law, moneys in this account are authorized for use by the Department of State for expenses incurred in connection with such

12/19/88

p.m.

proceedings and shall remain available until expended. This subsection shall not apply to any expenses incurred or amounts received in connection with the Iran-United States Claims Tribunal, or to any funds created under section 1627 of this title."

SEC. 137. OPERATION OF POSTS ABROAD

Sections 122 and 204 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204) are repealed.

SEC. 138. CONSULAR OFFICER DUTIES

Section 31 of the Act of June 22, 1860 (22 U.S.C. 4192) is repealed.

SEC. 139. ACCESS TO CRIMINAL RECORDS

(a) Section 9101 of title 5 of the United States Code is amended in subsections (b)(1), (b)(3)(A), (b)(3)(B), and (c) by inserting ", the Department of State" before "or the Federal Bureau of Investigation";

(b) The amendments made by this section shall be effective with respect to any investigation which begins after the date of enactment of this Act and which is conducted by the Department of State for purposes specified in paragraph (b)(1) of section 9101 of title 5, United States Code, or for national security or criminal justice purposes authorized by law.

12/19/88

p.m.

SEC. 140. PROCUREMENT, MAINTENANCE, OPERATION AND UTILIZATION
OF AUTOMATIC DATA PROCESSING EQUIPMENT

Section 759(a)(3) of title 40, United States Code, is
amended by

(1) deleting "or" at the end of 759(a)(3)(C)(v);

(2) striking the "." in subsection (D) and inserting in its
place "or"; and

(3) adding the following new subparagraph (E):

"(E) the procurement by the Department of State of
automatic data processing equipment or services if the
function, operation, or use of which--

(i) involves intelligence activities;

(ii) involves cryptologic activities related to
national security; or

(iii) is critical to the direct fulfillment of
intelligence missions;

(iv) is otherwise essential to national security
provided that this exclusion shall not include automatic data
processing equipment used primarily for routine administrative
and business applications such as payroll, finance, logistics
and personnel management.

SEC. 141. [SEC. 141. INTERNATIONAL GRANTS

Save for possible fix to drug-free work place re grants if
needed]

12/19/88

p.m.

PART C--DIPLOMATIC IMMUNITY, RECIPROCITY AND SECURITY

SEC. 150. EXCLUSION OF ALIENS PREVIOUSLY INVOLVED IN A
SERIOUS CRIMINAL OFFENSE COMMITTED IN THE UNITED STATES.

(a) Section 212(a) of the Immigration and Nationality Act
(8 U.S.C. 1182(a)) is amended--

(1) by striking out the period at the end of paragraph
(33) and inserting in its place "; and" and

(2) by adding after paragraph (33) the following new
paragraph:

"(34)(A) Any alien as to whom there is probable cause
to believe that he or she has committed in the United
States any serious criminal offense, as defined in
subparagraph (B), and who has exercised immunity from
criminal jurisdiction with respect to that offense;
except that such alien may be admitted to the United
States to participate in any proceeding regarding such
offense.

"(B) For purposes of this paragraph, the term
'serious criminal offense' means--

"(i) any felony;

"(ii) any crime of violence, as defined in
section 16 of title 18 of the United States Code; or

"(iii) any crime of reckless driving or of
driving while intoxicated or under the influence of
alcohol or of prohibited substances when that crime
involves personal injury to another."

12/19/88

p.m.

(b) Section 212(h) of the Immigration and Nationality Act of 1952 (8 U.S.C. 1182(h)) is amended in the title and in the text by striking "or" after "(10)", and inserting ", or (34)" after "(12)".

(c) [Reserve for possible provisions on proper use of pouch and on liability insurance]

SEC. 151. UNITED STATES - SOVIET RECIPROCITY IN MATTERS RELATING TO EMBASSIES.

Section 153(b) of Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204) is amended by striking "until the United States mission in Kiev is able to occupy secure permanent facilities" at the end and inserting in its place "except on the basis of reciprocity as to the establishment by the United States of a consulate in Kiev".

SEC. 152. UNITED STATES-SOVIET EMBASSY AGREEMENT

In light of decisions taken by the President in connection with obtaining a secure facility for the United States mission to the USSR in Moscow, section 151 of the the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204) is repealed.

SEC. 153. CHILD CARE FACILITIES AT CERTAIN POSTS ABROAD

Section 31 of the State Department Basic Authorities Act is amended by adding a new subsection (d) as follows:

12/19/88

p.m.

"(d) The Secretary of State may make grants to child care facilities in Moscow and at other posts abroad where the Secretary determines that due to extraordinary circumstances such facilities are necessary to the efficient operation of the post. In determining that a facility is necessary, the Secretary shall take into account factors such as:

"(1) Whether Foreign Service spouses are encouraged to work at the mission because

"(a) the number of members of the mission is subject to a ceiling imposed by the receiving country; and

"(b) Foreign Service Nationals are not employed at the mission; and

"(2) Whether local child care is available."

SEC. 154. STATE DEPARTMENT CONTRACTOR EXEMPTION TO POLYGRAPH PROTECTION ACT

Sec.7. of the Employee Polygraph Protection Act of 1988 (Public Law 100-347) is amended by

a) redesignating subparagraph "(d)" as subparagraph "(e)"; and

b) inserting the following new subparagraph:

"(d) Department of State Contractors Exemption.--Nothing in this Act shall be construed to prohibit the administration, by the Department of State, of any lie detector test, administered under regulations implementing the Department's polygraph

12/19/88

p.m.

program, to an individual under contract to the Department or an employee of a contractor or subcontractor of the Department of State who is engaged in the performance of any work under a contract or subcontract with the Department."

[SEC. 155. FOREIGN SOVEREIGN IMMUNITY

Save for provision if necessary]

p.m.

PART D -- PERSONNEL

SEC. 160. AUTHORITY TO TRANSFER RETIREMENT CONTRIBUTIONS
FOR FOREIGN SERVICE NATIONALS TO LOCAL PLANS

(a) Subsection 408(a) of the Foreign Service Act of 1980 (22 U.S.C. 3968) is amended by inserting at the end thereof the following new subparagraph:

"(3) At the direction of the Secretary of State, and where a foreign national employee so elects during a one-year period established by the Secretary of State with respect to each post abroad, the Secretary of the Treasury shall transfer such employee's interest in the Civil Service Retirement and Disability Fund to a trust or other local retirement plan certified by the U.S. Government, under a local compensation plan established for foreign national employees pursuant to this section (excluding local social security plans). For purposes of this paragraph, an employee's "interest in the Civil Service Retirement and Disability Fund" shall mean the lump sum credit and the total of government contributions with respect to such employee, pursuant to subsections 8331(8) and 8334(a)(1) of title 5, United States Code, respectively, plus interest at the rate provided in subsection 8334(e)(3) of such title. Any such transfer shall void any annuity rights or entitlement to lump sum credit under subchapter III of chapter 83 of such title."

12/19/88

p.m.

(b) Section 8345 of Title 5, United States Code is amended by adding at the end thereof a new subsection (1), as follows:

"(1) Transfers of contributions and deposits authorized by Section 408(a)(3) of the Foreign Service Act of 1980, as amended, shall be deemed a complete and final payment of benefits under this chapter, for the employee's funds thus transferred.

SEC. 161. JUDICIAL REVIEW -- SEPARATION FOR CAUSE

Section 610 of the Foreign Service Act of 1980 (22 U.S.C. 4010) is amended by adding at the end of subsection (a)(2) the following new sentence:

"Section 1110 shall also apply to proceedings under this paragraph."

SEC. 162. TRAVEL, LEAVE, AND OTHER BENEFITS

Section 901 of Chapter 9 of the Foreign Service Act of 1980 (22 U.S.C. 4081) is amended as follows:

(1) Paragraph (8) is amended by striking "by a member of the Service" from the introductory clause.

(2) Paragraph (9) is amended by inserting "to or" immediately after "round-trip travel"; and

(3) Paragraph (11) is amended by inserting "or at" immediately after "(and of his or her family) to" and by striking "successive".

p.m.

SEC. 163. AMENDMENTS TO TITLE 5, UNITED STATES CODE

(a) Section 5523(a) is amended

(1) in subparagraph (1)(A) by inserting "(or that of his dependents or immediate family, as the case may be)" after "departure"; and

(2) in the last sentence by striking the phrase "not more than 120 additional days" and by inserting in its place "120 additional days, and thereafter in 30-day increments".

(b) Section 5551(a), is amended by adding after the word "pay" in the second sentence, "or, for service as part of a tour of duty or extension thereof commencing on or after July 1, 1990, the basic pay,".

(c) Section 5922 is amended by adding at the end thereof the following new subsections (d) and (e):

"(d) When a quarters allowance or allowance related to education under this subchapter, or quarters furnished in Government-owned or controlled buildings under section 5912, would be furnished to an employee but for the death of the employee, such allowances or quarters may be furnished or continued for the purpose of allowing any child of the employee to complete the current school year at post or away from post notwithstanding the employee's death."

12/19/88

p.m.

"(e) When an allowance related to education under this subchapter would be authorized to an employee but for the evacuation/authorized departure status of the post, such an allowance may be furnished or continued for the purpose of allowing dependent child(ren) of such employee to complete the current school year or, when circumstances dictate, to continue to the end of the evacuation/authorized departure period."

(d) Section 5923, relating to quarters allowance, is amended--

(1) in paragraph (1), by inserting "and subsistence" after "lodging" and by inserting "including meals and laundry expenses" after "quarters" the first time it appears;

(2) in subparagraph (1)(A), by striking "3 months" and inserting "90 days" in its place;

(3) in subparagraph (1)(B), by striking "1 month" and inserting "30 days" in its place; and

(4) by adding at the end of paragraph (1)(B) the following new subparagraph:

"(C) The allowance under subparagraphs (A) and (B) may be extended for up to an additional 60 days if the head of agency concerned or his designee determines that there are compelling reasons beyond the control of the employee for the continued occupancy of temporary quarters."

p.m.

(e) Section 5924(2) is amended--

(1) by inserting "subsistence and other relocation" after "reasonable" and inserting "(including unavoidable lease penalties)" after "expenses"; and

(2) in subparagraph (A), by deleting "the Commonwealth of Puerto Rico" and inserting "the Commonwealths of the Northern Marianas Islands or Puerto Rico," in its place; and

(3) in subparagraph (B), by striking "between assignments to posts in foreign areas" and inserting "after the employee agrees in writing to remain in Government service for 12 months after transfer, unless separated for reasons beyond the control of the employee that are acceptable to the agency concerned" in lieu thereof.

(f) Section 5924(4) is amended--

(1) in the introduction, by inserting "or official assignment to serve in such area or areas," after "foreign areas";

(2) in subparagraph (A), by striking "kindergarten" and inserting in its place "pre-kindergarten for handicapped children, kindergarten,"; and

(3) in the first line of subparagraph (B), by inserting, "its territories and possessions and the

12/19/88

p.m.

Commonwealths of the Northern Marianas Islands and Puerto Rico," after "United States", and by striking "undergraduate college" each time it appears and inserting in its place "post-secondary educational institution"; and

(4) by striking the last sentence in subparagraph (B) and inserting as new subparagraph (C):

"(C) Notwithstanding section 5921(6) of this title an education allowance under subparagraph (A) and travel expenses for the purpose of obtaining post-secondary education under subparagraph (B) may be authorized under such regulations as the President may prescribe for dependents of employees assigned outside the continental U.S."

SEC. 164. CREDIT FOR SERVICE AT UNHEALTHFUL POSTS

(a) Section 816(i)(2) of the Foreign Service Act of 1980 (22 U.S.C. 4056) is amended to read as follows:

"(2) A former spouse shall not be considered as married to a participant for periods assumed to be creditable service under section 808(a) or section 809(e)."

(b) Section 817 of such Act (22 U.S.C. 4057) is amended by adding, at the end thereof, the following new sentences:

"Such extra credit shall not be used to determine the eligibility of a person to qualify as a former spouse under this subchapter, or to compute the pro rata share under

12/19/88

p.m.

section 804(10). No extra credit for service at unhealthful posts shall be given under this section for any service as part of a tour of duty, or extension thereof, commencing on or after July 1, 1990."

SEC. 165. FORMER SPOUSES OF USIA AND AID EMPLOYEES

(a) Section 831 of the Foreign Service Act of 1980 (22 U.S.C. 4069b) is amended by adding at the close thereof a new subsection (g), as follows:

"(g) Any individual who was on February 14, 1981, an otherwise qualified former spouse pursuant to section 830 of this Act, but who was married to a former Foreign Service employee of the United States Information Agency or of the Agency for International Development shall be entitled to benefits under this section if the former employee retired from the Civil Service Retirement and Disability System on a date before his employing agency could legally participate in the Foreign Service Retirement and Disability System, so long as the marriage included at least five years during which the employee was assigned overseas."

(b) Section 832 of the Foreign Service Act of 1980 (22 U.S.C. 4069c), as amended, is amended by adding at the close thereof a new subsection (g), as follows:

"(g) Any individual who was on February 14, 1981, an otherwise qualified former spouse pursuant to subsections

12/19/88

p.m.

(a), (b), and (c) of this section, but who was married to a former Foreign Service employee of the United States Information Agency or of the Agency for International Development shall be entitled to benefits under this section if the former employee retired from the Civil Service Retirement and Disability System on a date before his employing agency could legally participate in the Foreign Service Retirement and Disability System, so long as the marriage included at least five years during which the employee was assigned overseas."

SEC. 166. GRANTS FOR INSTITUTIONS EDUCATING MINORITIES IN INTERNATIONAL AFFAIRS.

The State Department Basic Authorities Act of 1956 (22 U.S.C. 2269 et seq.) is amended by adding the following new section 44:

"SEC. 44. Grants for Training and Education of Minorities in International Affairs.

"The Secretary of State may make grants to post-secondary educational institutions or minority students for the purpose of increasing the level of knowledge and awareness of and interest in employment with the Foreign Service, consistent with Section 105 of the Foreign Service Act of 1980, as amended."

12/19/88

p.m.

SEC. 167. RETIREMENT BENEFITS FOR PERSONS TRANSFERRING TO
INTERNATIONAL ORGANIZATIONS

(a) Section 854 of the Foreign Service Act of 1980 (22 U.S.C. 4071c) is amended by inserting a new paragraph (e) as follows:

"(e) Credit shall be given under this System to a participant for a period of service with a public international organization in which the government of the United States participates, provided that the participant:

(1) Transfers to the international organization with the consent of the head of his agency, and that

(2) Employee deductions and agency contributions for the period of employment with the international organization are currently deposited in the Fund.
except that such service shall not be considered creditable service for the purpose of any retirement system for transferring personnel, if such service forms the basis, in whole or in part, for an annuity or pension under the retirement system of the international organization."

(b) Section 3582(a)(1) of title 5 of the United States Code is amended by striking "any system established by law for the retirement of employees," and inserting the following:

"the Civil Service Retirement and Disability System or the Federal Employees Retirement System,"

12/19/88

p.m.

SEC. 168. CHIEF OF MISSION SALARY

Section 302(b) of the Foreign Service Act of 1980 (22 U.S.C. 3942(b)) is amended by striking "shall receive the salary" and all that follows and inserting in its place "may elect to continue to receive the salary of his or her salary class, to remain eligible for performance pay under chapter 4, and to receive the leave to which such member is entitled under subchapter I of chapter 63 of title 5, United States Code, as a member of the Senior Foreign Service, in lieu of receiving the salary and leave (if any) of the position to which the member is appointed by the President."

SEC. 169. WAIVERS FOR ALTERNATE ANNUITIES

Section 807(e)(4) of the Foreign Service Act of 1980 (22 U.S.C. 4047(e)(4)) is amended to read:

"(4) A participant who, at the time of retiring under this subchapter has a former spouse, shall be ineligible to make an election under this section if the former spouse is entitled to benefits under this subchapter (based on the service of the participant) unless a spousal agreement has been executed under section 802(b)(1) acknowledging the reduction of retirement benefits for the former spouse."

12/19/88

p.m.

SEC. 170. HIGHER MINIMUM RATES OF PAY FOR THE FOREIGN SERVICE SCHEDULE.

Chapter 4 of the Foreign Service Act of 1980 is amended by inserting at the end thereof the following new section:

"414. Higher minimum rates.

"(a) When the Secretary of State finds that pay rates in private enterprise for one or more occupations are so substantially above the pay rates of the Foreign Service Schedule, as set forth in Section 403 of this Act, as to impede significantly the Government's ability to recruit or retain well-qualified individuals in positions paid under Section 403, he may establish higher minimum rates of basic pay for one or more classes, occupational groups, series, or subdivisions thereof, and may make corresponding increases in all step rates of the pay range for each such class or occupational group. However, a rate so established may not exceed the maximum pay rate prescribed by statute for the class.

"(b) Within the limitations of subsection (a) of this section, rates of basic pay established in that subsection may be revised from time to time by the Secretary of State. The actions and revisions have the force of law.

"(c) An increase in rate of basic pay established under this section is not a within-class salary increase within the meaning of Section 406 of this Chapter.

12/19/88

p.m.

SEC. 171. SAVINGS PROVISION

All determinations, authorizations, regulations, orders, agreements, or other actions made, issued, undertaken, entered into or taken under authority of any provision of the Foreign Service Act of 1980 repealed, modified, or affected by this Act shall continue in full force and effect until modified, revoked, or superseded by appropriate authority.

SEC. 172. ONE-TIME EXCLUSION OF GAIN FROM SALE OF PRINCIPAL RESIDENCE BY INDIVIDUAL WHO HAS ATTAINED AGE 55

Section 121 of the Internal Revenue Code of 1986 is amended by inserting the following new subparagraph (9) under subsection (d):

"(9) In the case of members of the Foreign Service, as defined by subsections 103(3), (4), and (5) of the Foreign Service Act of 1980, as amended, the five-year period referred to in subsection (a)(2) may be extended for an additional two years where the Foreign Service member has been on assignment overseas during the period immediately preceding the sale of his or her principal residence."

p.m.

TITLE II - INTERNATIONAL ORGANIZATIONS

SEC. 201. UNITED STATES MEMBERSHIP IN INTERNATIONAL SUGAR ORGANIZATION AND INTERNATIONAL TROPICAL TIMBER ORGANIZATION

The President is authorized to continue membership for the United States in the International Sugar Organization and the International Tropical Timber Organization.

SEC. 202. REFORM IN BUDGET DECISION-MAKING PROCEDURES OF THE UNITED NATIONS AND ITS SPECIALIZED AGENCIES

The Congress finds that the United Nations and its specialized agencies have made progress in the formulation and implementation of budget reforms as called for by section 143 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987, as amended (Public Law 99-93). Presidential determinations that were required by that and other laws confirm the progress that has been made in this respect. The Congress finds that it is imperative that these organizations continue to implement these and other reforms. Therefore, Congress urges the Secretary of State to ensure that the United Nations and its specialized agencies have implemented or are implementing reforms enhancing the role of major contributors in the budget making process and promoting greater financial responsibility in the preparation of the assessed budgets of those organizations before expending funds appropriated for contributions to those organizations.

- 38 -

12/19/88

p.m.

SEC. 203. CONTRIBUTION TO THE REGULAR BUDGET OF THE
INTERNATIONAL COMMITTEE OF THE RED CROSS

Section 742 of the Foreign Relations Authorization Act,
Fiscal Years 1988 and 1989, is repealed.

12/19/88

p.m.

TITLE III - IMMIGRATION AND REFUGEE PROVISIONS

SEC. 301. OUTREACH PROGRAMS WITHIN THE UNITED STATES TO PROMOTE NORMAL IMMIGRATION OF RELATIVES OF FORMER REFUGEES

For fiscal year 1990 and succeeding fiscal years, the Secretary of State is authorized to make grants to, and contracts with, public or private nonprofit agencies for outreach programs aimed at encouraging persons admitted as refugees to apply for permanent resident status and citizenship, and to file immigrant visa petitions for their relatives seeking to enter the United States for resettlement.

SEC. 302. UN HIGH COMMISSIONER FOR REFUGEES AUDIT REQUIREMENT

Section 113(a) of Public Law 99-93 is amended to read as follows:

"(a) PROGRAM AUDITS.-- Funds may not be available to the United Nations High Commissioner for Refugees under this or any other Act unless provision is made for--

"(1) annual program audits to determine the use of UNCHR funds, including the use of such funds by implementing partners; and

"(2) such audits are made available through the Department of State for inspection by the Comptroller General of the United States."

SECTIONAL ANALYSIS

AN ACT

TO AUTHORIZE APPROPRIATIONS FOR FISCAL YEARS 1990 AND
1991 FOR THE DEPARTMENT OF STATE, AND FOR OTHER PURPOSES

Section 1: Short Title

This section provides that the Act may be cited as the
"Foreign Relations Authorization Act, Fiscal Years 1990 and
1991."

PART A -- AUTHORIZATION OF APPROPRIATIONS;
ALLOCATION OF FUNDS; RESTRICTIONS

Section 101: AUTHORIZATION OF APPROPRIATIONS

This section authorizes appropriation of funds to carry
out the functions and duties of the Department of State in
accordance with the provisions of Section 15(a) of the State
Department Basic Authorities Act of 1956 (22 U.S.C. 2680), as
amended. This Act primarily authorizes funds to be
appropriated for fiscal years 1990 and 1991.

Subsection (a):

Category 1 -- Authorizes appropriations under the heading
"Administration of Foreign Affairs" for fiscal years 1990 and
1991. This category provides the necessary funds for the
salaries, expenses and allowances of the officers and employees
of the Department, both in the United States and abroad and the
expenses of the Office of the Inspector General. It includes
funds for executive direction and policy formulation, conduct
of diplomatic relations with foreign governments and
international organizations, acquisition and maintenance of
office space and living quarters for United States missions

-2-

12/19/88 p.m.

abroad, provision of security for those operations, and domestic public information activities. This category also provides for representational expenses in accordance with Section 905 of the Foreign Service Act of 1980. Further, it authorizes funds for such activities as funds for relief and repatriation loans to United States citizens abroad and for other emergencies of the Department; and authorizes appropriations for protection of foreign missions and officials, and the American Institute in Taiwan.

Category (2) -- Authorizes appropriations for fiscal years 1990 and 1991 under the heading "International Organizations and Conferences." This category provides the necessary funds for United States contributions of its assessed share of the expenses of the United Nations and other international organizations of which the United States is a member, including arrearages from prior year contributions. In addition, provision is made for funding of official United States Government participation in regularly scheduled or planned multilateral intergovernmental conferences, meetings and related activities, and for contributions to international peacekeeping activities in accordance with multilateral agreements.

Category (3) -- Authorizes appropriations for fiscal years 1990 and 1991 under the heading "International Commissions." This category provides funds necessary to enable the United

-3-

12/19/88 p.m.

States to meet its obligations as a participant in international commissions such as the American Sections of international commissions dealing with American boundaries and related matters with Canada and Mexico, and international fisheries commissions.

Subsection (b) authorizes appropriations for fiscal years 1990 and 1991 under the heading "Migration and Refugee Assistance" to enable the Secretary of State to provide assistance and make contributions for migrants and refugees, including contributions to international organizations such as the United National High Commissioner for Refugees and the International Committee for the Red Cross, through private voluntary agencies, governments, and bilateral assistance, as authorized by law.

Subsection (c) authorizes appropriations for "Other Activities" for fiscal years 1990 and 1991. This provides funds for United States bilateral science and technology agreements, Soviet-East European research, and the Asia Foundation.

Section 102. AVAILABILITY OF FUNDS.

This section amends section 24 of the Department's Basic Authorities Act in a number of ways affecting the availability of funds for use by the Department.

Subsection (a)(1) amends section 24(b) to provide that unobligated balances in accounts under the heading

-4-

12/19/88 p.m.

"Administration of Foreign Affairs" may be transferred to and merged with the Department's Buying Power Maintenance Fund at any time prior to the end of the two-year period following the period of availability, when the funds would otherwise revert to the Treasury. This authority applies only to expiring balances and is not applicable to no-year funds. Once transferred, the balances could only be used for the purposes for which the Fund was established, that is, to offset adverse fluctuations in foreign currency exchange rates, or unbudgeted overseas wage and price changes. Section 102(b) specifies that this provision applies only to funds appropriated for fiscal year 1987 and later. Furthermore, for fiscal year 1987 and 1988 funds, it applies only to funds deobligated after the date of enactment of this act, and does not allow transfer of funds already returned to Treasury.

Subsection (a)(2) amends authority in section 24(d) to transfer up to 10% of the amount authorized between certain named accounts. The accounts currently named do not always correspond to the headings under which funds are authorized, and this amendment clarifies that transfer of authorization can be made between any two accounts designated by the authorization committees.

Subsection (a)(3) adds three new sections to section 24. New section 24(e) provides that earmarks within accounts are reduced proportionately if the amount appropriated (or made

-5-

12/19/88 p.m.

available following sequestration pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985) is less than the amount of the authorization. New section 24(f) provides authority for the Department to retain refunds from contractors realized from the disposition of excess property initially acquired to perform a contract for the Department, whether or not the refund is received within the same fiscal year as the appropriation from which the funds were obligated. New subsection 24(g) provides authority for the Department to enter into 12-month contracts that bridge two fiscal years so long as funds are obligated within the fiscal year for which they were appropriated. This amendment will enable procurement actions for the Department to be more evenly distributed throughout the calendar year and so promote more orderly contract administration. The same authority has already been granted to other agencies in the executive branch.

SECTION 103. FUNDING FOR 1992 SEVILLE WORLD'S FAIR

This section authorizes appropriation of \$5,000,000 to enable the Department of State to bear not more than one-third of the costs of participation by the United States in the 1992 World's Fair in Seville. The funds will be available for obligation or expenditure only if the Department of Commerce and the United States Information Agency contribute funds to cover the rest of these costs.

-6-

12/19/88 p.m.

PART B -- DEPARTMENT OF STATE AUTHORITIES
AND ACTIVITIES; FOREIGN MISSIONS

SECTION 121. CERTAIN OPERATIONAL AUTHORITIES

This section amends section 2 of the State Department Basic Authorities Act to provide permanent authorization for several operational activities that have, in recent years, been reenacted annually in the Department's appropriations acts, including obligations assumed in West Berlin after World War II, provision of certain telecommunications services, and provision of maximum physical security in Government owned and leased properties and vehicles abroad. With this permanent authorization, it will no longer be necessary to specify these activities each year in the appropriations act. This amendment is included at the request of the House Appropriations Committee.

SECTION 122. SHARED COSTS AT AMERICAN EMBASSIES ABROAD

This section provides authority in several areas related to the Department's provision of administrative services abroad. Subsection (a) provides explicit authority for the Department to retain reimbursements for capital costs incurred in providing space to other agencies at posts abroad. This authority will enable the Department to move toward full cost sharing with other agencies as Congress has urged in recent years.

-7-

12/19/88 p.m.

Subsection (b) requires all Federal agencies with representation at U.S. posts abroad to make use of administrative services and goods provided by the Department of State, to the extent the Department determines such goods and services are available on an efficient and cost effective basis. The amendment specifies that all agencies are to reimburse costs of the consolidated local guard program provided by the Department's Diplomatic Security Service pursuant to section 105(2)(D) of the Omnibus Diplomatic Security and Antiterrorism Act of 1986. The purpose of the amendment is to promote efficient use of centrally provided services and minimize duplication of effort at our missions abroad.

SECTION 123. AUTHORITY OF DIPLOMATIC SECURITY SERVICE

This section clarifies the authority of agents of the Diplomatic Security Service to make arrests without warrants to enable the Department more effectively to carry out its enforcement responsibilities. Under current law, in order for a special agent to make an arrest for a felony violation not committed in his presence, two requirements must be met: the agent must have reasonable grounds to believe that such person has committed or is committing such violation and, in addition, the person must be in or fleeing from the immediate area of the commission of the violation.

The requirement that an individual be in or fleeing from the area of the crime is not a usual condition of comparable

-8-

12/19/88 p.m.

arrest authorities; for example, the arrest authorities of the Secret Service, F.B.I., Bureau of Alcohol, Tobacco and Firearms, and the Drug Enforcement Administration do not contain such a requirement. It is, moreover, a severely restrictive requirement, which effectively permits arrest only when the agent can apprehend the violator almost immediately after the crime. If, for example, the violator successfully escapes pursuit by the agent, the agency cannot later arrest him. The proposed amendment would remove this requirement, and would allow a special agent to make an arrest without warrant if the violation either occurs in the agent's presence or if the agent has reasonable ground to believe that the person has committed or is committing such a violation.

SECTION 124. FEES AND REIMBURSEMENTS

Section 124 adds a new section to the State Department Basic Authorities Act to allow the Department to retain certain fees and reimbursements. Current law (22 U.S.C. 214 and 215) requires the deposit into the Treasury of all fees collected for execution of applications for passports and visas and for issuance of passports and placing visas in alien passports. (22 U.S.C. 214 permits execution fees to be retained by States or reimbursed to the Postal Service on passport applications processed by them.) In order to maintain the pace toward automation of the passport and visa functions of the Department of State, this amendment would authorize the creation of a \$20

-9-

12/19/88 p.m.

million fund from fees collected for passport services, visa services, and notarial services to be credited to an account which will only be available for that program. This fund would be replenished each year from current consular fee receipts, but no more than \$20 million would be available in any one year. This amendment will help reach the objectives set in section 132 of the 1986-87 authorization act to identify narcotics traffickers, as well as enhancing our counter-terrorism capability as recommended by the Inman Panel. In addition, the Anti-Drug Abuse Act of 1988 (Public Law 100-690) requires the State Department in conjunction with the Immigration and Naturalization Service and the U.S. Customs Service to develop and implement greater border control measures through automation and machine readability.

New section 43(b) allows fees or surcharges established by the Department and reimbursements received for the use of Blair House to be retained by the Department and made available to the account from which the funds originated (or the currently applicable account). This revision will make it possible for the Department to recoup some of its expenses incurred in allowing others to use Blair House facilities for official and social functions. It also provides a means to ensure that reimbursements required for individuals attending representational functions can be used to defray the costs of those events.

-10-

12/19/88 p.m.

SECTION 125. WAR HAZARDS COMPENSATION ACT

This section explicitly provides for coverage of a possible loophole in overseas construction hazard insurance by defining the term "war-risk hazard" to include hazards arising from terrorist activity. This amendment should assist the Department in obtaining lower insurance premiums on overseas construction.

SECTION 126. INTERNATIONAL CENTER

This section gives the Department explicit authority to charge tenant U.S. Government agencies for use of facilities for security and maintenance located at the International Center. It also provides the Department authority to retain such payments in a no-year account for general maintenance, utilities, and operations and for major repairs and alterations of such facilities.

SECTION 127. ACQUISITION OF DOMESTIC PROPERTY AS INTERIM STEP TO ACQUIRING PROPERTY ABROAD

This section amends Title II of the State Department Basic Authorities Act, "Authorities Relating to the Regulation of Foreign Missions," to clarify and define the authority of the Department to acquire and dispose of property in the United States as an interim step to acquiring diplomatic and consular property abroad on the basis of reciprocity. The authority to acquire and dispose of property in the United States is vested in the Office of Foreign Missions because that Office is charged with other aspects of overseeing foreign missions in

-11-

12/19/88 p.m.

the United States and is in a position to ensure that concerns for reciprocity with our mission in the foreign country at issue are preserved. The amendment makes clear, however, that the authority to acquire property in the United States for such an exchange is to be exercised only when the Secretary or his designee determines in a specific instance that such an exchange is the best way to carry out the purposes of the Foreign Service Buildings Act, 1926 and will be funded from appropriations under the heading "Acquisition and Maintenance of Foreign Buildings Abroad," including those available from proceeds derived from dispositions, payments, or gifts as provided under section 9 of that Act. The section also amends that Act to provide that funds realized from the sale of any property acquired through use of funds made available under the "Acquisition and Maintenance of Foreign Buildings Abroad" account or the Foreign Service Buildings Fund will be retained in the Foreign Service Buildings Fund.

SECTION 128. WORKING CAPITAL FUND FOR OFFICE OF FOREIGN MISSIONS

This section amends section 13 of the State Department Basic Authorities Act providing for use of the working capital fund to carry out Office of Foreign Missions functions to clarify that the fund is available for all expenses in carrying out the Foreign Missions Act. The current reference in section 13 to "services and supplies" creates some confusion as to whether the fund can be used for the full range of functions carried out by the Office as provided in section 208(h)(3).

-12-

12/19/88 p.m.

SECTION 129. FOREIGN SERVICE INSTITUTE FACILITIES

This section authorizes the appropriation and transfer to GSA of the full amount needed to construct the new Foreign Service Institute facility. The additional \$12 million is to enable the diplomatic security training facilities to be located at the FSI site. This increase will bring the total amount authorized to \$73,000,000.

SECTION 130. MUNITIONS CONTROL REGISTRATION FEES

This section authorizes the Office of Munitions Control to retain up to \$250,000 in munitions control registration fees for the purpose of automating its munitions control functions. This amendment makes permanent authority already existing for fiscal years 1988 and 1989.

SECTION 131. ESTABLISHMENT OF STAFFING LEVELS BY CHIEF OF MISSION

This section eliminates certain restrictions on statutory authority of the chief of mission and the Secretary of State to establish staffing levels at missions abroad by a) repealing the requirement in section 801 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 to allow two DEA agents to be posted in any mission where one is approved without reference to local conditions, and b) amending section 103 (b) of the Omnibus Diplomatic Security and Antiterrorism Act of 1986 to restore the Secretary's authority over the staffing levels of the AID Regional Inspection General.

-13-

12/19/88 p.m.

SECTION 132. STATE DEPARTMENT POST OFFICES ABROAD

This section provides specific authority for the Department of State to provide postal service to posts abroad and to reimburse the United States Postal Service for costs incurred in transporting personal mail to such posts. Currently our posts abroad rely on local mail service, supplemented in a number of instances by Department of Defense APO/FPO service. This authority will enable the Department to provide similar service to a number of isolated posts where no APO/FPO service is available.

SECTION 133. REPORT ON EXPENDITURES MADE FROM APPROPRIATION FOR EMERGENCIES IN THE DIPLOMATIC AND CONSULAR SERVICE.

This section repeals the requirement for a quarterly report to Congress on expenditures from the Emergencies in the Diplomatic and Consular Service account. This account is now audited by the Inspector General. Any information specifically desired can be requested from the Department from the committee in its oversight capacity and will be provided.

SECTION 134. INTERNATIONAL BOUNDARY & WATER COMMISSION

Subsections (a) and (b), at the request of the House Appropriations Committee, records authorizations previously contained each year in the Department's appropriation act. The remaining sections provide several new authorities for the International Boundary and Water Commission: 1) authorization of appropriations for representational purposes in order to allow the Commissioner and other U.S. Section staff members to reciprocate courtesies with Mexican officials in the conduct of

-14-

12/19/88 p.m.

Commission business; 2) authorization to handle flood emergencies resulting from floodwaters of the Tijuana and Colorado Rivers (in addition to those from the Rio Grande) and to cover emergencies dealing with sanitation problems and projects as well as flood-related problems; and 3) to establish a revolving fund for receipts from sale of electricity by both Mexico and the United States generated by electrical power plants at the Falcon and Amistad dams for use in financing projects approved by the two governments along the border. Such projects will include, for instance, international flood control works, international storage, flood control and/or power generation dams, international boundary stabilization works, and international water pollution control works. This fund will be established on the basis of an agreement with Mexico setting forth the terms of such funding, and will not be established until such agreement has been concluded. Funds may be expended only for projects authorized by law and only to the extent an appropriate proportion of the funds has been made available by the Government of Mexico. A report of revenues deposited in the Fund will be made to Congress each year.

SECTION 135. SALE OF PERSONAL PROPERTY

This section authorizes the Secretary to allow employees selling personal property abroad to retain a portion of their profit, otherwise required to be donated to charity, in order to offset in whole or in part the taxes payable on the

-15-

12/19/88 p.m.

contribution. This provision is necessary because most foreign service officers do not itemize deductions on their tax returns and therefore would have no deduction to offset the income contributed, as required by law, to a charitable organization.

SECTION 136. AUTHORITY TO RETAIN FUNDS FOR EXPENSES FROM CLAIMS SETTLEMENT FUNDS

This section revises 22 U.S.C. 2668a, concerning funds received by the Secretary of State from foreign governments and others in settlement of international claims, in order to require the Secretary of State to deduct a percentage fee amount for reimbursement of expenses in cases where the payment is received as a result of international arbitration or other international dispute settlement proceedings to which the United States is a party. This amount would be deducted from amounts determined to be due to U.S. citizens in connection with such claims, and would be placed in a separate account in the Department of State in order to defray the expenses of future proceedings of this character. Separate statutes already provide for such a deduction with respect to the Iran-United States Claims Tribunal and the Foreign Claims Settlement Commission, which are therefore exempted from the operation of this section.

SECTION 137. OPERATION OF POSTS ABROAD

This section repeals provisions in the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 requiring the Department and USIA to keep open certain posts abroad.

-16-

12/19/88 p.m.

Section 305 of the Department of State Appropriations Act, 1989 waived these two sections through the end of fiscal year 1989, and they should now be repealed because they limit the ability of the President to determine how our presence abroad can best be structured. During fiscal year 1989 the Department reviewed seven posts slated for closure earlier, and determined that four should be closed: Dusseldorf (Germany), Goteborg (Sweden), Tangier (Morocco) and Turin (Italy). These four posts are now closed. The Department also decided that two of the posts under review should be kept open: Maracaibo (Venezuela) and Strasbourg (France), and that the status of the remaining post should be reviewed again in 1990 (Salzburg, Austria).

Flexibility on post openings and closings is essential to the Secretary of State's ability effectively to manage his responsibilities. This is especially so during times of budgetary austerity when the linkage between policy and resources must be given special attention. Our needs for overseas diplomatic and consular representation have changed over the years as our interests have changed. The nature of diplomacy and consular operations has also evolved in recent years with developments in communications, transportation and other technologies. Such changes have altered the importance of certain overseas posts, and the Secretary of State is charged with the responsibility of determining how our

-17-

12/19/88 p.m.

diplomatic and consular representation at the posts concerned should reflect those changes. At the same time, the Secretary will regard the views of the Congress as to the value of particular posts as an important factor in his determination of the posts required to carry out most effectively our global responsibilities.

SECTION 138. CONSULAR OFFICER DUTIES

This section repeals 22 U.S.C. 4192 pertaining to the legal effect in the United States of marriages performed by consular officers abroad after the effective date of the Act. This provision dates back to 1860 when U.S. consuls had judicial powers in China and certain other countries. The amendment deletes this obsolete provision since marriages are no longer performed by consular officers and because the existence of this obsolete provision is confusing to American citizens.

SECTION 139. ACCESS TO CRIMINAL RECORDS FOR SECURITY CLEARANCES

This section amends 5 U.S.C. 9101 to grant the Department of State access to state and local criminal records for use in investigations for the purpose of determining eligibility for access to classified information or assignment to or retention in national security duties, as well as for other national security or criminal justice purposes authorized by law on the same basis as the Department of Defense, the Office of Personnel Management, the Central Intelligence Agency, and the Federal Bureau of Investigation.

-18-

12/19/88 p.m.

SECTION 140. PROCUREMENT, MAINTENANCE, OPERATION AND
UTILIZATION OF AUTOMATIC DATA PROCESSING EQUIPMENT

This section amends 40 U.S.C. 759 to extend the exemption from the provision's requirements provided for the Department of Defense to the Department of State in areas where the Department of State has similar operational concerns. The amendment applies to the procurement by the Department of State of automatic data processing equipment or services if the function, operation, or use of the equipment or services which involves intelligence activities or cryptologic activities related to national security, is critical to the direct fulfillment of an intelligence mission, or is otherwise essential to the national security. The amendment does not include automatic data processing equipment used primarily for routine administrative and business applications such as payroll, finance, logistics, and personnel management. Protests concerning such procurement is thus removed from the jurisdiction of the General Services Board of Contract Appeals. The General Accounting Office will provide a forum for protests, but they will be heard under procedures better designed to protect against public disclosure of sensitive information and to allow procurement to continue during the proceedings in these areas crucial to the national interest.

[Section 141 Drug-free fix for grants]

-19-

12/19/88 p.m.

PART C--DIPLOMATIC IMMUNITY, RECIPROCITY AND SECURITY

SECTION 150. EXCLUSION OF ALIENS PREVIOUSLY INVOLVED IN A SERIOUS CRIMINAL OFFENSE COMMITTED IN THE UNITED STATES.

This section amends section 212(a) of the Immigration and Nationality Act to prevent reentry of an alien where there is probable cause to believe that the alien has committed a serious crime in the United States as to which he or she exercised immunity from criminal jurisdiction, preventing adjudication of guilt or innocence. Such aliens will not be accredited again in a status that confers immunity, but could enter the United States as a tourist or in another unofficial capacity. The determination of probable cause required to meet this new standard of ineligibility will be made by the Department of State in consultation with appropriate law enforcement authorities at the time the alien is declared persona non grata or otherwise required to leave the United States.

Subparagraph (B) of new paragraph (34) defines the term "serious criminal offense" as: any felony; any crime of violence as defined in 18 U.S.C. section 16; or any case of reckless driving or of driving while intoxicated or under the influence of alcohol or prohibited substances which results in personal injury to another person.

The existing authority of the Attorney General, in consultation with the Secretary of State, to waive ineligibility for a non-immigrant visa would apply to new

-20-

12/19/88 p.m.

paragraph (34). Furthermore, to provide some flexibility for immigrant visas, this section would also amend section 212(h) of the Act to apply to new paragraph (34) in the same manner as to immigrants ineligible under paragraphs 212(a)(9), (a)(10), and (a)(12). This would allow a visa to be issued to certain otherwise excludable aliens who have close relatives who are citizens or permanent residents in the United States in instances where denial would result in hardship to the relatives and admission is not contrary to the welfare, safety or national security of the United States.

SECTION 151. UNITED STATES - SOVIET RECIPROCITY IN MATTERS RELATING TO EMBASSIES

Section 151 amends section 153(b) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 by deleting the requirement for "secure permanent facilities" in Kiev before allowing the Soviet Union to open any new consulate in the U.S. and requiring instead that the two consulates should be treated on the basis of reciprocity. This will allow the United States to determine the type of facility that will best serve its interests in Kiev while maintaining the requirement for reciprocal treatment for any new Soviet consulate in the United States.

SECTION 152. UNITED STATES - SOVIET EMBASSY AGREEMENT

This section repeals the provisions imposed by section 151 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 requiring termination of agreements between the United

-21-

12/19/88 p.m.

States and the USSR for the building of new embassies. The original section could be waived by the President on the basis of certain findings. In light of subsequent events, in particular decisions made by the President as to how to proceed with construction in Moscow to obtain a secure facility, section 151 is no longer needed.

SECTION 153. CHILD CARE FACILITIES AT CERTAIN POSTS ABROAD

This section authorizes the Secretary of State to make grants to subsidize the cost of day care facilities in Moscow and, on a case-by-case basis, other posts where the Secretary determines a similar situation exists. The need for subsidized day care in Moscow is due to a series of extraordinary circumstances that create pressure on foreign service spouses to work at the post while virtually eliminating reasonable child care alternatives. The number of members of the mission in the USSR is subject to a strict ceiling at the same time that the embassy has stopped employing foreign service nationals due to security and reciprocity considerations. As a result, foreign service spouses are urged to work, many in jobs at low pay rates. While this creates an increased need for child care, the same security considerations that prevent employment of locals in the embassy severely limit the availability of local babysitters. The Inspector General has recommended that the resulting problem at post could be alleviated if subsidized day care were provided, and this is

-22-

12/19/88 p.m.

the only post at which the Department currently has plans to use this authority. However, the authority to provide such grants may be needed elsewhere in the future.

SECTION 154. STATE DEPARTMENT CONTRACTOR EXEMPTION TO POLYGRAPH PROTECTION ACT

Section 154 provides an exemption to the provisions of the Employee Polygraph Protection Act of 1988, to enable the Department to request contract employees to undergo polygraph examinations under the same regulations that apply to Department personnel. The Act currently prohibits employers from requesting any employee to take a polygraph examination although government employees are exempted from application of the Act. Exemptions are also provided for certain contract employees (including employees of contractors) engaged in intelligence or counterintelligence functions for the Department of Defense, the Department of Energy, the National Security Agency, the Defense Intelligence Agency, the Central Intelligence Agency, and the Federal Bureau of Investigation. The amendment would provide a similar exemption for Department of State contract employees and employees of contractors and subcontractors of the Department.

SECTION 155 (FSIA if necessary)

-23-

12/19/88 p.m.

PART D -- PERSONNEL

SECTION 160. AUTHORITY TO TRANSFER RETIREMENT
CONTRIBUTIONS FOR FOREIGN SERVICE NATIONALS TO LOCAL PLANS

This section provides authority to allow FSN employees, at the direction of the Department, to transfer their interest in the Civil Service Retirement and Disability Fund -- their contributions, government contributions, and earnings -- to a local retirement plan or trust fund. Enactment of such a proposal would be consistent with Congressional intent, expressed in the Foreign Service Act, that FSN pay and benefits be based on local practice and local compensation plans. It would also substantially reduce the administrative burden on the Department and OPM that now arises in managing civil service retirement for FSN's.

SECTION 161. JUDICIAL REVIEW -- SEPARATION FOR CAUSE

This section amends section 610 of the Foreign Service Act (22 U.S.C. 4010 et seq.) to make clear that the judicial review provision contained in section 1110 of the Act, now expressly applicable to grievances, applies to separation for cause cases as well.

SECTION 162. TRAVEL, LEAVE, AND OTHER BENEFITS

This section amends section 901 of Chapter 9 of the Foreign Service Act of 1980 by expanding visitation travel. Current law provides that employees may visit their family when family members are not allowed at post. First, as section 901(8) is

-24-

12/19/88 p.m.

currently written, only employees receive this travel. There have been cases where dependent children were not allowed at post, and this amendment would allow spouses to receive the same visitation travel as employees to visit children in the U.S. or at other locations. It would also allow the family to meet at a mutually convenient location other than the United States or post when consistent with the government's interest.

Second, in today's Foreign Service it is increasingly likely that married employees go abroad while the family remains in the U.S. Under current law, expenses of emergency visits may only be paid from a location abroad. Thus, if an employee at post becomes seriously ill, the spouse who wishes to visit the employee cannot be reimbursed. This amendment to 901(9) would permit payment for emergency visitation to post as well as from post.

The purpose of the third amendment to 901(11) is to make explicit the Secretary's authority to treat overseas personnel in government-leased and government-owned housing and personnel in privately leased housing equally when it comes to paying for moves required for reasons of force majeure at post. At present the government pays for the moving costs when individuals are housed in government-leased or owned quarters, but not when they are in privately leased quarters. Since the individuals are at post for the convenience of the government and the government is paying for the costs of the housing, and

-25-

12/19/88 p.m.

because housing abroad is provided at the option of the government, there is no reason to treat employees differently by reason of the housing arrangements the government has selected when those employees are required by circumstances beyond their control to move. Examples of such circumstances include destruction of the housing or compliance with new local laws or restrictions.

SECTION 163. AMENDMENTS TO TITLE 5, UNITED STATES CODE

Section 163 amends a number of personnel provisions contained in Title 5 of the United States Code, as follows:

Subsection (a) inserts language already contained in 5 U.S.C 5522 to clarify the longstanding practice that dependents whose departure is officially authorized or ordered are entitled to the allowances authorized by this section even if the employee remains at post. It would also eliminate the 180 day limit on the subsistence expense allowance for evacuees by allowing limited extensions beyond that period of 30 days each. Currently the allowance terminates after 180 days, even if the employee and/or family member remains in evacuation/ordered departure status. Removal of the limit would allow evacuees to receive the allowance for the actual duration of the evacuation/ordered departure status.

Subsection (b) would prohibit inclusion of any post differentials or foreign or territorial allowances for hardship in lump sum leave payments for employees who retire from a post

-26-

12/19/88 p.m.

abroad rather than in the United States. The existing statute provides the possibility of a windfall payment, which the Inter-Agency Committee on Allowances has recommended be eliminated. This amendment would produce Government-wide savings. The term "basic pay" is defined in 5 U.S.C. 8331(3).

Subsection (c) would allow an agency to provide for children of employees assigned overseas to complete their current school year if the employee dies. Education and/or living quarters allowances for the children and other family members may be continued by the agency for the purpose of allowing such children to complete the current school year at post. Also, education allowances could be continued for a child in a school away from post until the end of the school year. Similarly, an education allowance for school away from post may be continued if the employee or spouse is evacuated or ordered to depart. This continuation may extend through the duration of the evacuation, or the end of the school year, whichever comes last.

Subsection (d) would permit the reimbursement of some meal and laundry expenses incurred by employees and families occupying temporary quarters abroad. It would enable the Department to combine the present separate temporary lodging and supplementary post allowances into a single per diem type allowance comparable to that paid employees on transfers to and within the United States.

-27-

12/19/88 p.m.

The revision from "3 months" and "1 month" to "90" and "30" days is for simplification and to correspond to the general use of a fixed number of days, rather than months, for similar benefit periods.

The new paragraph (C) is to allow for the fact that due to extremely difficult housing market rental conditions in a few locations abroad, the 3-month period has not permitted employees the necessary time to locate and secure suitable housing. This new section would permit heads of agencies to extend the temporary lodging period by up to an additional 60 days when such conditions were beyond the control of the employee.

Subsection (e) would result in two revisions of particular importance to Civil Service employees. First, transfer allowances currently available on departure from the United States to a foreign area would also be permitted on similar transfers from U.S. territories, possessions and Puerto Rico. Second, the transfer allowance is currently available to Foreign Service personnel agreeing to 12 months additional service upon return to the U.S. under section 901(14) of the Foreign Service Act. This amendment would provide the same basis of payment for employees not covered by that Act. Under present legislation, Civil Service employees can be paid a transfer allowance only upon return to the U.S. between foreign assignments.

-28-

12/19/88 p.m.

Subsection (f) update and improve the education allowance system to bring it into line with current circumstances and problems.

The first change permits payment of educational allowances for children of employees being transferred or newly assigned to a Foreign Service post with inadequate schooling for the entire school year, even if the member of the Service does not depart the United States until after the beginning of the school year.

The second amendment clarifies the authority to provide educational services to handicapped children before they reach kindergarten age. The "Education for All Handicapped Children Act of 1975" (P.L. 94-142) generally requires states to offer public educational facilities for handicapped children from age three. This amendment will amend 5 U.S.C. to remove any question that overseas education allowance policy is consistent with U.S. public school education practice for handicapped children.

The third amendment would permit travel to educational institutions in "non-foreign" areas outside the U.S. such as the U.S. Virgin Islands and Puerto Rico. Educational travel to these non-foreign areas is of particular importance to Department of Defense civilian personnel with normal U.S. residences outside the several states and the District of Columbia. It would also permit post-secondary educational

-29-

12/19/88 p.m.

travel for dependents not only for undergraduate college education, but also at other institutions such as nursing, technical, vocational, music and performing arts schools which are not considered colleges. This amendment is necessary in order to provide the appropriate kinds of post-secondary education for a wider variety of chosen career fields for dependent children. The term "educational institution" in the text of the amendment is drawn from 38 U.S.C. 1701(a)(6) (Veterans Benefits) although there are no current plans to extend the benefit during post-graduate education, as is possible for veterans. Accredited educational institutions at which these benefits can be used will be determined by reference to an established list, such as that developed by the Veterans Administration or the Department of Education. . The list or lists to be used will be specified by regulations issued by the Secretary.

The fourth amendment would allow the President to authorize the payment of an education allowance for dependents of employees stationed outside the continental United States, for example, in Guam or American Samoa, and travel expenses to the continental United States for undergraduate college education, (and other post-secondary education, consistent with the amendment described above.) This authority could be used to facilitate reorganization of overseas operations to areas under U.S. jurisdiction for reasons of security and economy, while maintaining uniform treatment of personnel.

-30-

12/19/88 p.m.

SECTION 164. CREDIT FOR SERVICE AT UNHEALTHFUL POSTS

Section 164 amends sections 816(i) and 817 to eliminate extra service credit, currently granted to members not receiving post differential, for assignments at unhealthy posts. The amendment to section 816(i) and the first new sentence to section 817 eliminates unhealthy post credit from computations of the time period during which a marriage must have endured for purposes of qualifying as a former spouse under the Act. Currently, subparagraph (B) of section 816(i)(2), which would be repealed, makes it necessary for the Department to determine whether a spouse resided with a member at an unhealthy post, both before and after passage of the Foreign Service Act of 1980. This is almost impossible to determine for periods prior to institution of the special reports now required. The change would simplify administration of the Act to insure that the period required to qualify as a former spouse under the Act is the same for all former spouses, without significantly affecting benefits. Credit earned under section 817 prior to July 1, 1990 would be reflected, for former spouses, in the proportionate share of annuities/survivor benefits received as a result of the member's service at unhealthy posts.

The second sentence of subsection (b) would phase out the application of Section 817 of the Act, whereby participants in the Foreign Service Retirement and Disability System may

-31-

12/19/88 p.m.

receive an extra six months of creditable service towards the accrual of retirement benefits for each year of service at an unhealthful post, in lieu of any hardship differential that would otherwise be payable. The amendment would permit such extra credit to be granted to employees who have already earned it, or whose tour at an unhealthful post begins before July 1, 1990.

Enactment of this amendment would conform treatment of Foreign Service Retirement and Disability System ("FSRDS") participants to that of the Foreign Service Pension System. The amendment would also bring the FSRDS into line with current compensation philosophy by emphasizing the payment of differentials at the time special service is rendered, rather than through deferred benefits such as additional retirement credit.

Section 165. FORMER SPOUSES OF USIA AND AID EMPLOYEES

This amendment perfects former spouse legislation enacted in the 1988-89 authorization act, by including among the beneficiaries a handful of former spouses inadvertently excluded at that time. The 1988-89 authorization act extended annuity and survivor benefits and access to Federal group health insurance to former spouses of career Foreign Service employees whose divorces occurred before the effective date of the Foreign Service Act. As written, the legislation omitted some 10 to 15 former spouses whose husbands held career Foreign

-32-

12/19/88 p.m.

Service appointments with USIA or AID, and who worked overseas, but whose retirement coverage was provided by the Civil Service Retirement system. USIA employees who retired before 1969, and AID employees who retired before 1974, with former spouses who otherwise would qualify for former spouse benefits are the group who would benefit from this amendment.

The Department supports this amendment because the prospective beneficiaries underwent the same hardships and career deprivation of overseas life in the Foreign Service as their counterparts who are now enjoying these benefits.

SECTION 166. GRANTS FOR INSTITUTIONS EDUCATING MINORITIES IN INTERNATIONAL AFFAIRS.

This amendment to the Basic Authorities Act would authorize the Secretary of State to make grants to educational institutions. Grants would be allowed for programs aimed at increasing the knowledge particularly of minority students concerning foreign policy and foreign affairs, as well as their interest in and awareness of the possibility of careers in the Foreign Service. The amendment would also permit the Secretary to make direct grants to minority students, in order to facilitate their receiving education that will increase their knowledge of and interest in international affairs. The amendment would permit the Department to go beyond its traditional recruiting activities for minorities, and to aid educational programs and individual students to increase the

-33-

12/19/88 p.m.

pool of qualified minority applicants for Foreign Service careers. Grants would be made under the authority of this amendment as part of the Department's minority recruitment program, all other considerations being equal.

SECTION 167. RETIREMENT BENEFITS FOR PERSONS TRANSFERRING TO INTERNATIONAL ORGANIZATIONS.

Section 167 amends section 854 of the Foreign Service Act of 1980 to make service with international organizations creditable under the Foreign Service Pension System ("FSPS") and Federal Employees Retirement System ("FERS"), as it is under the old retirement systems (FSRDS and CSRDS). In order to receive credit for such service, an employee must transfer to the international organization with the consent of the employing agency. In addition, both the employee and the employing agency must make required current contributions to their retirement fund.

This amendment is necessary to facilitate the assignment of employees to international organizations, particularly the Multilateral Forces Organization (MFO), since transferees now receive no retirement credit whatsoever for service with the MFO. MFO employees are not subject to FICA taxes, and do not gain Social Security credit for such service. Therefore, under current law such service cannot be credited under either of the new federal retirement systems, either FERS or FSPS. At the same time, the MFO, which is a small organization, does not maintain its own pension plan; hence, employees do not have the

-34-

12/19/88 p.m.

option of claiming an MFO benefit in place of added credit with the FSPS or FERS for their period of employment. The outcome is that FSPS and FERS employees forego retirement credit of any kind for service with the MFO, a major financial disincentive. We believe that this situation works against Congressional intent in establishing the MFO, i.e., that MFO have significant numbers of American personnel on staff.

Legislation is needed to correct this problem. The Department has consulted with the Office of Personnel Management to seek regulatory relief, but OPM has indicated that existing legal definitions of creditable service for the new retirement systems (both FERS and FSPS) will not permit coverage by regulation for any form of service in which an employee is not subject to Social Security payroll taxes. Accordingly, we seek amendments to Chapter 8 of the Foreign Service Act and to Chapter 35 of Title 5 to clarify the well settled intention of Congress that approved service with international organizations should be creditable towards retirement for all government employees who wish to receive such credit, and who, along with their agencies, consent to contribute to their retirement funds while rendering such service.

SECTION 168. CHIEF OF MISSION SALARY

Section 168 amends section 302(b) of the Foreign Service Act of 1980 to give members of the Service appointed to a

-35-

12/19/88 p.m.

position in the executive branch by the President the option of choosing whether a) to continue to receive the salary and benefits, including leave and eligibility for performance pay, to which the member would be entitled in the Senior Foreign Service or b) to receive the salary and leave (if any) of the position to which the member is appointed by the President. This amendment affects primarily chiefs of mission although certain other senior positions at the Assistant Secretary level and above in the Department are also covered. It restores the option of retaining foreign service pay and benefits that existed prior to the 1988-89 authorization act, in recognition of the fact that career members of the foreign service should not be penalized in any way by accepting a promotion that involves a Presidential appointment. This restores parity between Senior Foreign Service and Senior Executive Service members accepting Presidential appointments, for pay purposes, as envisioned by section 402 and 405 of the Foreign Service Act of 1980.

SECTION 169. WAIVERS FOR ALTERNATE ANNUITIES.

This amendment conforms Foreign Service treatment of the alternative form of annuity to that of the Civil Service by eliminating the unnecessary requirement that spouses or former spouses approve an employee's acceptance of the alternate form of annuity. The existing statute assumes incorrectly that acceptance of the alternate form of annuity acts to reduce a

-36-

12/19/88 p.m.

spouse's or former spouse's survivor benefit. In fact, survivor benefits are the same, regardless of whether the employee elects the alternate form of annuity. Hence, spouse or former spouse waivers with respect to survivor benefits are unnecessary.

The amendment would also enable employees and former spouses entitled to retirement benefits under section 814 or section 820 to execute spousal agreements allowing the employee to claim the alternate form of annuity, provided that the agreement acknowledges that acceptance of the alternate form of annuity will reduce the retirement benefits paid to the former spouse while the employee is still alive. This treatment is provided for Civil Service employees, and is extended to the Foreign Service as a conforming amendment.

SECTION 170. HIGHER MINIMUM RATES OF PAY FOR THE FOREIGN SERVICE SCHEDULE.

The Foreign Service is currently covered by special pay rate authority in 5 U.S.C. 5303, which is controlled by the Office of Personnel Management. The Department would be better served by creating a separate authority for foreign affairs agencies to establish and maintain special pay rates for employees in hard to recruit positions or occupations. This authority would be available, for example, to establish special higher pay rates, if needed, to hire groups such as Security Engineers or other technical occupations difficult to staff in the Foreign Service context.

-37-

12/19/88 p.m.

SECTION 171. SAVINGS PROVISION.

This amendment is included to make clear that all actions taken pursuant to provisions of the Foreign Service Act repealed, modified or affected by this Act remain effective until and unless further action is taken under the amended provisions.

SECTION 172. ONE-TIME EXCLUSION OF GAIN FROM SALE OF PRINCIPAL RESIDENCE BY INDIVIDUAL WHO HAS ATTAINED AGE 55.

Under current law the Internal Revenue Code provides for a one-time exclusion of gain from the sale of a principal residence by an individual who has attained age fifty-five provided that during the five-year period ending on the date of the sale or exchange, the property was owned and used by the taxpayer as a principal residence for periods aggregating three years or more. For a foreign service officer serving at a post abroad as one of the final rotations before the officer's retirement, this five-year requirement can be impossible to meet. The result is that government service deprives the officer of a benefit available to other taxpayers or, where such benefits are of particular significance to senior foreign service officers, the government cannot obtain the service of those it would choose to fill essential posts. Such an inequitable disparity can be corrected through this amendment, which, while continuing to ensure the principal residence requirement, would allow foreign service officers posted abroad at the end of their careers an additional two years to qualify for the tax benefit.

-38-

12/19/88 p.m.

TITLE II - INTERNATIONAL ORGANIZATIONS

SECTION 201. UNITED STATES MEMBERSHIP IN INTERNATIONAL SUGAR ORGANIATION AND INTERNATIONAL TROPICAL TIMBER ORGANIZATION

This legislation is intended to facilitate U.S. participation in the International Tropical Timber Organization (ITTO) and the International Sugar Organization (ISO). The U.S. joined the ITTO in 1985, sharing its goals of improved tropical timber market transparency and sustainable utilization and conservation of tropical forests and their genetic resources. This legislation would authorize the U.S. to pay its share of the ITTO budget to be paid from funds appropriated for Contributions to International Organizations.

The amendment will also allow the U.S. to accede to the 1987 International Sugar Agreement and facilitate U.S. participation in the ISO, which the U.S. first joined in 1977. The ISO provides a forum for discussion of sugar issues and collection of statistics on sugar trade. U.S. participation reflects our desire to cooperate on problems in the world sugar market and a recognition of our partial responsibility, via our domestic sugar program, for world market conditions. This legislation would authorize the U.S. to pay its share of the ISO budget from funds appropriated for Contributions to International Organizations.

SECTION 202. KASSEBAUM - SOLOMON (??)

SECTION 202. REFORM IN THE BUDGET DECISIONMAKING
PROCEDURES OF THE UNITED NATIONS AND ITS SPECIALIZED AGENCIES

This section recognizes the progress made by the United Nations and the specialized agencies in the budget reform process as called for in previous legislation. This provision makes clear that the United States is committed to the continuation of the process of implementing these reforms and that no retreat from ongoing progress will be acceptable. If the process does not continue, the State Department may, at its discretion, withhold a portion of the funds appropriated for the UN or the specialized agencies. This potential withholding will keep these organizations aware of our continued concern respecting this reform process.

SECTION 203. CONTRIBUTION TO THE REGULAR BUDGET OF THE
INTERNATIONAL COMMITTEE OF THE RED CROSS

This amendment repeals the earmark for the Red Cross. In this case, an earmark for the ICRC ordinary budget reduces the ability to respond to the regional appeals issued by ICRC and other international organizations. It precludes our using donations in response to appeals as leverage to stimulate contributions from other donors. ICRC and other international organization officials stress the desperate financial situation they all faced as they entered 1989 in the unprecedented situation of having no carryover reserves.

-40-

12/19/88 p.m.

TITLE III - IMMIGRATION AND REFUGEE PROVISIONS

SECTION 301. OUTREACH PROGRAMS WITHIN THE UNITED STATES TO PROMOTE NORMAL IMMIGRATION OF RELATIVES OF FORMER REFUGEES

Section 902 authorizes the Department to conduct outreach programs within the United States for the purpose of promoting the adjustment of status, the acquisition of citizenship, and the filing of immigrant visa petitions for relatives of former refugees seeking to enter the United States. Dissemination of information concerning these actions would assist former refugees in their integration into the United States, and it would facilitate the possibility of family reunion through normal immigrant visa procedures. It is appropriate for the Department to conduct this activity in accordance with its responsibilities for initial reception and placement services to newly arrived refugees and in order to reduce the incidence of potential immigrants who apply for entry to the U.S. as refugees.

SECTION 302. UN HIGH COMMISSIONER FOR REFUGEES AUDIT REQUIREMENT

Section 903 amends section 113 of Public Law 99-93, which provides that funds may not be made available to the United Nations High Commissioner for Refugees (the UNHCR) unless by June 1, 1988, the High Commissioner provides for annual program audits by an independent consultant selected by the Executive

-41-

12/19/88 p.m.

Committee of the UNHCR. The audits are to be made available to the Comptroller General, who is required to inspect each such audit and submit a report of that inspection to the Congress. this requirement has served as an impetus to improve UNHCR program audits and the efficiency and quality of UNHCR programs. Since 1986, the UNHCR has commissioned program audits by outside consultants, which have been made available on a confidential basis to the Comptroller General. During this period, the United Nations Board of External Auditors (UNBEA) has greatly improved the scope and quality of its audits of UNHCR programs. The need for quality audits--and the benefits that can be derived from them--is well appreciated by both the UNHCR and the UNBEA.

Certain technical requirements in Section 113 of P.L. 99-93, however, have proven difficult to implement in practice, and may have created some unnecessary duplication of effort. For example, Section 113 provides that the Executive Committee is to approve the independent consultant, although under the UNHCR statute and regulations, that power belongs to the High Commissioner himself. In addition, the term "independent consultant," in light of the legislative history, appears to preclude the possibility of relying solely on the audits of the UNBWA, even though it is independent from the UNHCR and has recently produced thorough and useful audits of UNHCR programs that have led to substantial improvements in program management.

Summary of Changes to
Department of State Authorization
Fiscal Years 1990 and 1991

Section 1 provides the Title and Table of Contents of this Act

TITLE I

Part A - Authorization of Appropriations; Allocation of Funds

Section 101 provides for an authorization of appropriations for the Department of State in Accordance with Section 15(a) of the State Department Basic Authorities Act of 1956, as amended. The authorization is divided into six categories.

Section 102 amends the Basic Authorities Act (section 24) in several ways affecting the availability of funds. It provides that unobligated balances in the "Administration of Foreign Affairs" accounts may be transferred under specified conditions to the Buying Power Maintenance Fund rather than reverting to the Treasury; clarifies existing authority to transfer up to 10% of the amounts authorized between accounts named by Congress; provides for a proportional reduction in earmarks if appropriations are less than authorized amounts, through sequestration or appropriations legislation; provides authority to retain refunds from contractors realized from the disposition of excess property; and provides authority for the Department to enter into 12-month contracts which bridge two fiscal years, so long as funds are obligated within the fiscal year for which appropriated.

Section 103 authorizes up to \$5 million for funding U.S. participation in the Seville World's Fair of 1992.

Part B -- Department of State Authorities and Activities;
Foreign Missions

Section 121 is technical in nature, providing permanent authorization for several ongoing activities which in recent years have been reenacted in annual appropriations bills. This amendment is included at the request of the Department's appropriations subcommittees.

Section 122 enhances the Department's ability to move toward full cost sharing for overseas services provided to other agencies, by providing authority to retain reimbursements; and by requiring other agencies to use State Department provided services when the Secretary of State determines they can be provided on a cost-effective and efficient basis.

Section 123 clarifies the arrest authority for special agents in the Diplomatic Security Service.

Section 124 would allow a portion of the fees for passport and related services to be credited to a special account for research and development undertaken by the Department. It would also allow surcharges and reimbursements received for use of Blair House to be returned to the account from which the funds originated.

Section 125 amends the State Department Basic Authorities Act to provide clear authority for the government to accept direct responsibilities for injuries of employees of contractors at diplomatic and consular missions caused by terrorist activities, with the purpose of substantial cost savings on construction workmen's compensation required under the Defense Base Act.

Section 126 allows the Department to charge tenant U.S. government agencies for use of facilities located at the International Center, and allows such payments to be retained in the "International Center, Washington, D.C." account for general maintenance, utilities and operations.

Section 127 clarifies the authority of the Department to acquire properties in the United States for the sole purpose of in-kind exchanges for properties at posts abroad provided by other governments, on a case-by-case, reciprocal basis.

Section 128 clarifies the authority of the Office of Foreign Missions to use its working capital fund for the full range of functions carried out by that office under the Foreign Missions Act.

Section 129 increases the amount authorized for the new Foreign Service Institute campus to the full amount required for the project under the latest estimates, including Diplomatic Security training facilities.

Section 130 makes permanent the current authority of the Office of Munitions Control to retain up to \$250,000 in registration fees for the purposes of automation.

Section 131 reaffirms the authority of the Chief of mission to set staffing levels under the Omnibus Diplomatic Security Act by repealing conflicting provisions relating to DEA and to AID Regional Inspectors.

Section 132 authorizes the Department to establish a post office system for isolated posts abroad, where there is no possibility of using the DOD APO/FPO system.

Section 133 repeals an existing reporting requirement relating to the "Emergencies in the Diplomatic and Consular Services" account.

Section 134 provides several new authorities for the International Boundary and Water Commission, dealing with representation, flood emergencies, and creation of a revolving funding to manage receipts from sale of electricity.

Section 135 modifies existing limitations on sale of personal property by government employees abroad by authorizing the retention of a percentage of profits realized for the purpose of payment of federal taxes on the profit.

- 3 -

Section 136 provides authority for the Secretary of State to deduct a percentage fee from claims awards for reimbursement of expenses.

Section 137 repeals sections 122 and 204 of the previous authorization bill (waived in P.L. 100-202 for FY '88 and '89), which requires the Department and U.S.I.A. to keep certain posts abroad open, or incur a \$50 million S & E reduction.

Section 138 repeals an archaic provision relating to the authority of Consular officers abroad to perform marriages.

Section 139 would grant the Department access to state and local criminal records for specified purposes, including immigrant visa applications and the Special Agricultural Worker program, on the same basis as other agencies with comparable needs for such information.

Section 140 extends to the Department authority comparable to that of the Department of Defense for the Procurement and operation of Automatic Data Processing Equipment to waive competitive procurement requirements for cryptologic or intelligence activities.

Section 141 - BLANK (Drug-free workplace fix for grants?)

Part C -- Diplomatic Immunity, Reciprocity and Security

Section 150 amends the Immigration and Nationality Act to allow exclusion of foreign nationals suspected of being previously involved in a serious criminal act.

Section 151 modifies existing language relating to conditions under which the U.S. and the U.S.S.R. may open consulates in Kiev and New York, respectively, under conditions of reciprocity.

Section 152 repeals section 151 of the previous authorization act (waived for FY '88 and '89 by P.L. 100-202), which requires termination of embassy construction agreements between the U.S. and the U.S.S.R., unless the President waives such requirement on the basis of specified findings.

Section 153 authorizes a program of Child care at Moscow and certain other posts meeting specific criteria.

Section 154 corrects an oversight in the Employee Polygraph Protection Act of 1988, by providing the Department the same authority as DOD and other agencies to use polygraph testing for contractors, for counterintelligence purposes.

Section 155 BLANK (Foreign Sovereign Immunity?)

- 4 -

PART D -- Personnel

Section 160 facilitates implementation of current governmental policy, by allowing FSNs to transfer their interest in the Civil Service Retirement and Disability Fund to local retirement plans and trust funds.

Section 161 provides for judicial review by an aggrieved party of a final action of the Grievance Board or the Secretary in separation for cause cases.

Section 162 modifies section 901 of the Foreign Service Act of 1980, with respect to travel and other benefits in three ways. 162(1) allows family visitation by family members as well as members of the service. 162(2) allows emergency visitation to members of the service at post by family members, as well as by members of the service to the U.S. to family members. 162(3) provides equal treatment for all employees with respect to involuntary household moves at post.

Section 163 amends several sections of 5 U.S.C., as follows:

Subsection 163(a) clarifies authority for evacuated dependents to receive the subsistence expense allowance (SEA) even if the employee stays at post, and allows the current 180 day limit on SEA to be extended if the President determines it is in the government's interest to do so.

Subsection 163(b) prohibits inclusion of post differentials or foreign allowances for hardship in the basic salary used for computation of lump sum leave payments when an employee of the government retires at a post abroad.

Subsection 163(c) allows education and quarters allowances to be continued through a current school year following the death or evacuation of an employee.

Subsection 163(d) combines the present temporary lodging and supplementary post allowances abroad into a single per diem type allowance comparable to that paid employees on transfers to and within the United States.

Subsection 163(e) modifies certain civil service transfer allowances to bring them into conformity with the existing, more equitable Foreign Service provisions.

Subsection 163(f) updates educational allowance authorities to bring them into line with current circumstances, by allowing a payment at the time of transfer, by providing educational services to young handicapped children and by allowing educational allowances and travel to and from "non-foreign" areas outside the U.S. and to accredited institutions of higher education other than traditional undergraduate colleges.

Section 164 terminates the option of taking extra retirement credit in lieu of post differential under sections 816 and 817 of the Foreign Service Act, thus conforming the "old" Foreign Service Retirement and Disability System to a change already made for the new Foreign Service Pension System.

Section 165 perfects legislation passed in the last authorization bill providing benefits for former spouses, by including on the same terms a handful of former spouses inadvertently excluded at that time.

Section 166 provides authority for the Department of State to conduct a program of grants for institutions and individual students designed to increase the likelihood that minority students will pursue educational activities which will prepare them for, and lead them to seek careers in the Foreign Service.

Section 167 allows service with certain international organizations, in particular the Multinational Force, to be creditable under the new and old Foreign Service and Civil Service retirement systems, under specified conditions.

Section 168 restores the ability of career members of the Foreign Service appointed to presidential positions to opt to choose whether to be paid according to their career status, or according to the salary of the position. This once again would place them in the same situation as members of the SES similarly appointed to presidential positions.

Section 169 conforms Foreign Service treatment of the alternate annuity provision of retirement law to that of the Civil Service, by removing the requirement that spouses or former spouses approve this choice in advance.

Section 170 provides special pay rate authority for the Foreign Service system analogous to that existing for the Civil Service system, for use in enabling the government to remain competitive in attracting and keeping employees with highly-sought after skills.

Section 171 is a savings clause.

Section 172 provides that service abroad under government orders shall not be counted against the period of residence required in order to claim a capital gains excluding upon sale of a primary residence after age 55.

TITLE II International Organizations

Section 201 provides for U.S. membership in the International Sugar Organization and the International Tropical Timber Organization.

Section 202 simplifies existing requirements for continued budgetary reform before the President is empowered to pay assessed contributions to the United Nations and specialized agencies.

Section 203 deletes an earmark affecting contributions to the regular budget of the International Committee of the Red Cross.

TITLE III Immigration and Refugee Affairs

Section 301 authorizes an outreach program intended to identify and assist relatives of former refugees who seek to enter the United States.

Section 302 modifies requirements with respect to audits of the Office of the United Nations High Commissioner for Refugees.

ESTIMATED COSTS AND COST SAVINGS OF
PROPOSED AUTHORIZATION BILL PROVISIONS

A. Allowances and Benefits Provisions

<u>Sec. #</u>	<u>Amendment</u>	<u># of Cases Annually</u>	<u>Annual cost per Case</u>	<u>Total Annual Cost</u>
162(1)	Family visitation for spouse at post	5	\$3,600	\$18,000
162(2)	Emergency travel to post	10	2,000	20,000
162(3)	Involuntary moves at post	20	3,000	60,000
163(A)	Removal of 180 day Limit on SEA	20	2,000	40,000
163(B)	No Differential w/Terminal Leave Pay	50	(3,000)	(150,000)
163(C)	Educ. continuity evacuation death	10	5,000	50,000
163(D)	Comb. temp. lodging and subsistence	1,400	300	420,000
163(E)	Civil Service Transfer Allowance	10	15,000	150,000
163(F)	Edu. travel for non traditional college	100	1,400	140,000
163(G)	Kindergarten for the Handicapped	10	15,000	150,000
Total Net Cost				<u>\$748,000</u>

B. Miscellaneous

<u>Sec. #</u>	<u>Amendment</u>	<u>Total Annual Cost</u>
132	Post Office	--
153	Child Care in Moscow	25,000
901	Refugee Outreach	100,000

Doc. #1699G



Washington, D.C. 20520

Dear Mr. Speaker:

In accordance with Section 15 of the Act of August 1, 1956, as amended (22 U.S.C. 2680), there is transmitted herewith proposed legislation to authorize appropriations for the Department of State to carry out its authorities and responsibilities in the conduct of foreign affairs during the fiscal years 1990 and 1991 and for other purposes contained in this bill.

The primary purpose of the bill is to provide authorization of appropriations for (1) "Administration of Foreign Affairs" which supports the operation of the United States diplomatic and consular posts abroad and the Department of State in the United States; (2) "International Organizations, Conferences and other activities," which includes contributions to meet obligations pursuant to treaties, conventions or specific acts of Congress and other activities; (3) "International Commissions," which enables the United States to fulfill treaty and other international obligations; (4) "Migration and Refugee Assistance," which funds the United States annual contribution to the International Committee of the Red Cross and various refugee assistance programs; and (5) Other appropriations, including "Bilateral Science and Technology Agreements," "Soviet-East European Research and Training," and "The Asia Foundation." A section-by-section analysis further explaining the proposed legislation is also enclosed.

The Department has been informed by the Office of Management and Budget that there is no objection to the presentation of this proposed legislation to the Congress and that its enactment would be in accord with the program of the President.

Sincerely,

J. Edward Fox
Assistant Secretary
Legislative Affairs

Enclosures:

1. Proposed Legislation.
2. Section-by-Section Analysis.

The Honorable
James C. Wright, Jr.,
Speaker of the House of
Representatives.



Washington, D.C. 20520

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The Honorable
Dan Quayle,
President of the Senate.